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Supreme Court, U.S.
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No. 04-1063

In the
SUPREME COURT OF THE UNITED STATES
October Term, 2004

Rita C. Ferguson, *Petitioner,*
v.
Township of Hamburg, *Respondent.*

On Petition for a Writ of Certiorari to the
Michigan Court of Appeals

REPLY TO BRIEF IN OPPOSITION

Rita C. Ferguson
9715 Daisy Lane
Dexter, Michigan 48130
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Pro Se

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REPLY TO BRIEF IN OPPOSITION

"The Health Officer may condemn any existing or hereafter constructed individual sewage disposal system **when such system will not accept sewage effluent resulting in interference with plumbing fixture use**; or **where the sewage effluent exceeds the infiltrative capacity of the soil ...Such a sewage system as condemned shall be repaired**, rebuilt, or replaced by a system constructed according to the provisions of these regulations within a period of time specified by the Health Officer." Section 301.18 Livingston County Sanitary Code

In reply to the alleged health code violations, please see the two letters sent to the Health Department that are reproduced in the Appendix. The first letter includes four photographs of the sewage effluent, a small area 9" X 32", and of a damaged header pipe, and the repair to that pipe. The damage consisted of a single hole ½" X 1 1/2". It also includes four tenant letters. These exhibits rebut Respondent's argument of a Section 301.18 failing drainfield. The four tenant letters indicate that there has never been any problem with the toilets flushing properly or the drains backing up, as would occur if a drainfield was in fact failing. They document a fourteen year history of trouble free plumbing, and a trouble free drainfield contrary to Respondent's assertions of a "history" of health violations.

Both the environmental sanitarian employed by the Health Department and his boss were satisfied with the lawful repair completed within the time that Section 301.18 allows. This was not an "illegal fix" as Respondent maintains. Both inspected the property after reading the tenant letters and viewing the sequence of repair photographs. And both, contrary to Respondent's assertion, indicated the repair to the hole in the header pipe did not require a permit. Furthermore, both were suspicious of Respondent's involvement, since the damage occurred so soon after the dispute with the township arose. Less than a week and a half later.

Let's consider that damage. Photo 1 shows an area of effluent approximately 9 inches by 32 inches. One can reasonably infer from the small amount of effluent that the

hole was of recent origin, otherwise there would have been much more effluent on the ground. Photo 2 shows the hole. This hole was located directly on top of the pipe, not on the side or the bottom, and not from a crack The header pipe is thick walled and solid, it would have taken a deliberate blow to the top of the pipe to perforate the thick plastic. The remaining pipes were checked for holes, none were found. A singular hole could be expected where someone had trespassed onto the property and knocked a hole in the pipe, and then left quickly to avoid detection. A failing drainfield, on the other hand, will have effluent surfacing in multiple locations, because it results from soil that is saturated and can no longer absorb effluent. Furthermore the underlying soil was found to be pure sand and gravel. That type of soil is highly absorptive and the best possible combination for a drainfield,. The hole was knocked in the header pipe, not a lateral line. This gives an important clue as to who did it because an engineer would know that a hole in a header pipe would produce the maximum effluent in the least amount of time as opposed to a hole in a lateral pipe. That is where the effluent is collected before it is distributed in the laterals. The purpose of a header pipe hole was to maximize effluent before quickly arranging for the sanitarian to collect a sample. This evidence would then be used to try to force a connection via a health code violation.

> "I believe we have a scenario where someone deliberately knocked a hole in my pipe. That hole has been repaired and the sewage disposal system is again functioning normally, just as it was prior to the damage." Page 1, paragraph 5, letter 1-25-02

Subsequent to the repair, and over the last three years that this case has been winding its way slowly through the court system, the same health department sanitarian has periodically inspected the site. He has never found any effluent on the surface of the ground at any time during this three year period. That would not be the case if the drainfield was in fact a failing drainfield as Respondent nonetheless steadfastly maintains.

Why was John Adams, Respondent's Township Engineer, trespassing on the owner's property a week and a half after the dispute arose? Other than Petitioner's husband, he was the only living person that knew the location of the drainfield lateral lines and header pipe. He was there for a purpose – to manufacture evidence. He didn't just "discover" the sewage effluent from a "failing drainfield" in the middle of seven acres. On the day of the secret inspection the sanitarian was unsuccessfully looking for the drainfield . The health department sanitarian couldn't find the drainfield, and had been looking for a long time. But John Adams showed up and was able to then lead him to the opposite side of the building and point to the exact location of the very small area of effluent on the seven acres. The sanitarian then took the effluent sample.

He just happened to show up again when a "workman" was inspecting the lateral pipes for additional holes. Pretending to be a Health Department employee, he ordered the "workman" to stop work. That "workman", who in fact was Petitioner's husband, recognized John Adams. When he identified himself, Adams then changed his story and admitted he was from the township, now claiming he was acting on a neighbor complaint he had just received by telephone. When Petitioner's husband asked which neighbor had just called him, he incredibly could not come up with the name.

This is the same John Adams who later manufactured an affidavit to cover up the township failure of written notices and hearings alleging oral notification of all the rights and hearings required to be given in writing, and which were never given, either orally or in writing. How many instances of manufactured evidence, breaking the law, acting lawlessly, lying, fraud and deception does Petitioner have to uncover? Both the manufactured health code violation and cover up affidavit have been paraded shamelessly before the Michigan Court of Appeals, Michigan Supreme Court, and now the Supreme Court of the United States. Respondent claims this case is about a he said /she said affidavit. Petitioner agrees this case is about fraud and deception, but more importantly about the 14th Amendment due process requirement of an

opportunity to appear and defend prior to deprivation of property, a federal question.

The manufactured health code violation of John Adams fails upon analysis. If the Court is to meet its constitutional responsibilities of preventing a serious erosion of federal rights and a grave miscarriage of justice, it cannot permit itself to be completely bound by a state court determination of any issue essential to decision of a claim of federal right, else federal law could be frustrated by distorted fact finding. Petitioner was never allowed to cross examine her accuser or present rebuttal evidence in a hearing. The MTT claimed to have lost her rebuttal counter affidavits, but two copies were in the MTT file and before the COA, the copies she mailed, and the copies she had hand delivered.

An order resting upon fraud and deception necessarily must fall. Respondent has fraudulently represented, even now again in its Brief in Opposition before this Supreme Court of the United States, that there was an illegal fix of the drainfield (when it knows the repair was lawful), that there is effluent on the surface of the ground (when it knows that three years of repeated reinspections have shown otherwise), and that there is a failing drainfield and health code violation (when it knows otherwise).

Furthermore, Respondent has failed to disclose to this Court that there is another Livingston County Health Department approved drainfield on the property, and that there is an agreement between the owner and the Health Department that if the existing drainfield should ever in fact actually fail, that the owner would hook up to that second drainfield, or relocate the drainfield to another location on the seven acre property.

Nor has Respondent disclosed to this Court that John Adams filed an additional false complaint with the Department of Natural Resources alleging Section 301.18 effluent being discharged into the waters of the State, and alleging that the drainfield was located too near Long Lake, which the property fronts upon, but which frontage is over 300 feet away from the drainfield. On or about 4-15-02 Petitioner's tenant met with two female state inspectors who arrived unannounced, answering their questions, and observing their extensive investigation. The investigators

reported to the tenant prior to leaving that they believed the allegations were unfounded and that they found no violations. Respondent is aware of their conclusions, and is misleading this Court by its failure to disclose this contradictory finding.

Who's telling the truth? Respondent argues this is a case where the courts sided with the Township on the issue of the he said/she said affidavits. Petitioner disagrees. The MTT claimed it had no jurisdiction. The COA says the MTT made findings of fact based upon a reasonable person standard. Would a reasonable person listen to only one side's affidavits in a dispute? Would a reasonable person think that a court that has no jurisdiction to hear and decide can nonetheless make findings of fact? Would a reasonable person consider only the mortgage language dealing with the establishment of an escrow account for legitimate charges, but ignore the mortgage language dealing with disputed liens? Would a reasonable person overlook the illegal action of "misfiling" the change of address (by the Supervisor), the perjury and sabotage (of the engineer), the lying and recanting (of the utilities coordinator), the oral and written deception of township officials as to appeal rights (utilities coordinator, supervisor, assessor), and the sending of notification by Respondent ten months after expiration of a thirty day statute of limitations? How would a reasonable person view the "loss" of the counter-affidavits by the MTT? Or the fact that no oral or written notice of hearing, or any hearing, occurred prior to deprivation of Petitioner's property at the 1st public hearing?

Rita Ferguson is a trustworthy and honest person. She has been saving lives on the heart surgery floor for 28 years at St. Joseph Mercy Hospital, and teaches young aspiring students at the school of nursing. She has a AAA credit rating and has always paid the taxes she owes promptly and on time. She is an outstanding landlord, according to her tenant letters, and was complimented on the prompt, efficient, and thorough manner she addressed the damaged header pipe by the Health Department sanitarian and his boss. She is unwilling to pay for a sewer which is too far away and from which she receives no benefit. And contrary to Respondent's assertions, Petitioner is not required, under the mortgage agreement, to

pay disputed liens. She wants to be made whole, to have her property excluded from the special assessment district- as it would have been, and should have been, had she been notified and had an opportunity to appear and defend prior to deprivation of her property by inclusion at the 1st public hearing. That is exactly what the lack of change of address, lack of notices, lack of hearings, cover up affidavit and fraudulent allegations of health code violations were manufactured to prevent. To condone these actions would be a violation of her civil rights and a miscarriage of justice.

Petitioner's civil rights have been and are continuing to be violated by Respondent. That makes this case a federal case with federal questions, very important federal questions.

Out of the hundreds of special assessment cases before Respondent, Petitioner, a non-white owner, was the only owner not to have received the mandatory written notices of hearings and appeal rights. Her change of address was the only change of address "lost" and "misfiled" so that a domino chain of events ensued depriving her of her property without due process. As a non-white owner she has been singled out, and has received no predeprivation consideration at either the 1st or 2nd public hearings required by Michigan and Federal law, and no postdeprivation consideration on the merits.

All ethnic white property owners received notice of the 1st public hearing. Those white owners that appeared to defend, and that indicated their properties were more than 400 feet away, had their properties excluded from the special assessment district. However, since Petitioner did not receive notice of the 1st public hearing, through no fault of her own, Petitioner is being treated dissimilarly, and suddenly Respondent Township newly maintains that there is no distance limit for exclusion of her property. In other words, white property owners receive full consideration from the Township, but non-white owners are discriminated against arbitrarily, by changing the rules for non-white property owners. White owners that are over 400 feet away have their property excluded from the special assessment district, but non-white owners that are over 400 feet away have their property included in the special assessment district.

And by the reasoning advanced by Respondent, that the Attorney General Opinion of 1978 allows its Ordinance 69 to state "there is no maximum distance beyond which connection is not required.", this Supreme Court may itself one day receive a notice that it has been included in the next Hamburg Township Sewer Special Assessment District, and a later notice that a connection is required, and at any cost it names. Respondent's argument is faulty and her reliance on that Attorney General Opinion is misplaced. The Michigan Court of Appeals cases cited have consistently ruled townships may not force sewer connections beyond the 200 foot limit of MCL 333.12751 when a sanitary sewer is more than 200 feet from a structure. There is not one Michigan case allowing a township to use the Attorney General opinion to force connection to a sewer that is beyond the 200 foot limit established by state statute. Respondent is attempting to ignore Michigan case law, and to use this case to establish an unwarranted precedent, for both Federal and Michigan law.

Respondent's argument assumes Petitioner's building is within its special assessment district simply because it says so. Petitioner's federal claims are so central to this controversy as to preclude resting the judgment on what Respondent mistakenly argues are independent and adequate state grounds. The 1st and 2nd public hearings are an attempt by the State to formalize the due process rights of landowners. Respondent's argument in effect eliminates any requirement for due process afforded by a 1st public hearing. Structures are incorporated into special assessment districts at 1st public hearings. Inclusion in special assessment districts results in a deprivation of property rights and subjects included properties to liens determined at the subsequent 2nd public hearings. The failure to notify Petitioner and afford her the opportunity to defend at the 1st public hearing meant that the inclusion of her property was constitutionally invalid because it was a deprivation of property without the due process guaranteed by the 14th Amendment of the United States Constitution. Respondent is now asking this Court to condone its actions. And the township's new argument is contrary to its own actions, in excluding white owned properties more than 400 feet away at the 1st public hearing.

The result is racial discrimination against non-white owners in violation of federal law.

No white property owners had their property trespassed upon and their drainfields sabotaged. And no false cover-up affidavits were filed against white owners alleging oral notice, when what all owners were entitled to was written notices at the correct address prior to the required hearings. No white owners had false complaints filed against them with the Department of Natural Resources, which complaint was found to be untrue. No white owners had their property condemned by secret ballot of the Hamburg Township Board. Petitioner never even received notice and an opportunity to defend prior to that decision and unanimous vote of condemnation, a vote based upon the recommendation of who else, Township Engineer John Adams. Petitioner was shocked, embarrassed, and humiliated to see a taped broadcast of the program. It had been televised live on cable television to all the white owners in the township, and then repeatedly played back over and over and over again.

Respondent Hamburg Township is a rich white suburb near Detroit. The neighbor to the left of Petitioner's property is a retired vice president of General Motors, but he is not a retired minority vice president. The neighbor to the right of Petitioner's property is a multimillionaire sports athlete, but he is not a multimillionaire minority sports athlete. When Petitioner drives through Hamburg Township, she doesn't see anything but white motorists. When she walks into the Hamburg Township offices, she doesn't even see one minority employee. When she met with the utilities coordinator she was treated with haughty disrespect. But she noticed the utilities coordinator had treated the white owner ahead of her with both courtesy and respect. Her demeanor towards Petitioner then changed, and became hostile and combative. The utilities coordinator even refused to allow Petitioner to place her hands upon, or pick up and read, a copy of Ordinance 69. Not until the Township Clerk intervened and ordered her to do so. This utilities coordinator insisted she had mailed the notice of the 2nd Public Hearing to Petitioner's correct address, which Petitioner told her she had never received. But this utilities coordinator admitted in

an affidavit later that she had mailed not only the notice of the 2nd public hearing to the wrong address, but the notice of the 1st public hearing to the wrong address as well.

Hamburg Township is an enclave of rich white Americans, and township officials want it to stay that way. Respondent operates a multimillion dollar sewer system without meters. This allows Respondent to charge different rates for the same commodity sewage disposal. A family of eight white persons is charged roughly $12,700 for sewage removal. But because Petitioner has rented to racial minorities in the past, does so presently, and will continue to do so in the future, Petitioner is being charged $38,073.79 for sewage removal for four people. She is the only owner within the disputed special assessment district to receive such discriminatory pricing. She is being forced to pay three times as much for half the amount of sewage removal. And this Court is now being asked not to rule on this issue by Respondent, because it is a state issue. Township officials don't want racial minorities in their township. They might as well pass a law that commodity gas stations within the township are required to charge a carload of four white people $2.00 a gallon for gas, but a carload of four non-whites are to be charged $6.00 a gallon. Racial discrimination, subtle or otherwise, should not be allowed for either the sale of a commodity like gasoline or for the sale of a commodity item like sewage disposal. Both can be fairly priced by the installation of meters to measure actual commodity usage. Hamburg Township is using the lack of sewer meters to discriminate against Petitioner because she is a non-white property owner, and against her tenants, who in the past and future may be non-white tenants. This Court should compel Hamburg Township to install sewer meters so that it may not use the lack of meters to carry out its agenda of racial purity and discrimination.

This case never was about forcing Petitioner into a township sewer system. Petitioner's property is too far away. The real reason the township has repeatedly refused to settle this issue is because this case has always been about getting rid of Petitioner by burying her in a mountain of unreasonable sewer lien debt, using a triple special assessment and triple monthly usage charges, and then

attempting to confiscate Petitioner's non-white owned property after driving her out of business.

It did not escape the astute attention of the Michigan Attorney General's office handling the pending foreclosure that the alleged oral notification came after the 1st Public Hearing, and that there was therefore no notice, either written or oral, prior to the inclusion of the property at the 1st Public Hearing. The Attorney General's Office found this "deeply troubling". It elected to withhold this property from foreclosure pending the action by the Supreme Court of the United States on the issues raised in Petitioner's Writ of Certiorari, including deprivation of property without due process. The Michigan Attorney General's Office regards this as a federal question that should be handled by this federal Court.

I ask the Supreme Court of the United States to do so. The Michigan Tax Tribunal acknowledged that I had not received the written notices or hearings I was entitled to under the law. The Michigan Court of Appeals acknowledged that I had not received the written notices or hearings I was entitled to under the law. Under Federal law no governmental official may deny any federal rights to citizens of the United States, and no person may be deprived by a state court of a right secured by the Constitution. I have a right to be treated fairly and without racial discrimination, and I have a right to Equal Protection and Due Process under the Constitution of the United States. I ask this Supreme Court to protect and enforce those rights.

Respectfully submitted,

Rita C. Ferguson
Pro Se

January 25th, 2002

John A. Wilson, II
Environmental Sanitarian
Livingston County Health Department
2300 East Grand River
Howell, Ml 48843 – 7579

Dear Mr. Wilson,

Thank you for bringing this matter to my attention. I was surprised to receive your letter pointing out that there was effluent on my lawn at 11505 Dunlavy Lane, Whitmore Lake, Ml 48189. My husband mows the lawn at the lake every 10 days, and as of his last Fall mowing he had not observed any sewage on the surface of the lawn. Also, I went boating with my family in the Fall, and at that time did not notice a problem.

I received your letter January 3rd, 2002 and launched an immediate investigation. On Friday, January 4th, Photo 1, an area of lawn was discovered under the snow, with what appeared to be frozen liquid approximately 9 inches wide and 32 inches long. Digging below this area, the drainfield header pipe was discovered. That header pipe, Photo 2, had a hole in it. The hole was cut out and a Fernco adapter installed, Photo 3. This emergency repair was then covered with fresh soil, Photo 4, after the contaminated soil was removed. A week later this area was reexamined and no effluent was observed on the surface. Subsequently, a section of watertight header pipe was installed in place of the Fernco adaptor. As of today's date, no sewage has been observed seeping to the surface.

I would very much like to believe that the hole in my drainfield pipe was accidental. However, for reasons which I would be willing to discuss with you privately, I now believe this matter to be an act of vandalism, or worse, a malicious and intentional destruction of my

property. After making the emergency repair, the question then naturally arose - are there any other holes? Either in the drainfield header, or the lateral lines. A painstaking and thorough examination of the rest of the header and lateral lines was undertaken. The condition of these lines was documented to provide a baseline for comparison should damage to my drainfield occur in the future. These lines were observed to be functioning normally. The soil was sandy, with naturally occurring gravel. I am pleased to report that no additional holes were found.

To followup, I requested a status report from the four individuals living on the premises and received the attached letters. Please read them.

Section 301.18 which you cite in your letter provides... "Such a sewage system as condemned shall be repaired... within a period of time specified by the Health Officer." My repair complies with Section 301.18. Furthermore, the tenant letters support the proposition that the existing sewage disposal was and is, other than the hole, functioning properly. This is not a Section 301.18 scenario where there is a failing drainfield that " ...will not accept sewage effluent resulting in interference with plumbing fixture use..." Nor is the sewage effluent exceeding the infiltrative capacity of the soil. As noted, the soil was observed to be sandy, with naturally occurring gravel. These tenant letters confirm that there has been no past history of a drainfield problem. To put it another way, if someone were to knock a hole in anyone's header pipe, sewage effluent would eventually seep to the surface. That hole would not indicate an inadequate or failing sewage disposal system. I believe we have a scenario where someone deliberately knocked a hole in my pipe. That hole has been repaired and the sewage disposal system is again functioning normally, just as it was prior to the damage.

One final point. You cite a state statute and county sanitary code in your letter. I went online and read those laws. Section 1275 (c) of the state statute provides: "Available public sanitary sewer system means... passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates."

The Livingston County Health Code adopts the same standard.
301.02 states, "Available public sanitary sewer means a public sanitary sewer... passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates." The subject premises, 11505 Dunlavy Lane are 550 feet from the Hamburg Township Sanitary Sewer, as measured by the Township engineer. Therefore the Hamburg Township sewage system is not available and reasonably accessible as defined by the law.

I would like you to reinspect the violation you cited: "M. Allow sewage to accumulate on the surface of the ground or to flow into an open drain, ditch or body of water." I am confident you will find no further sewage on the surface of the ground. I would request that should you plan to reinspect, that you make this inspection at a mutually agreeable date and time, as I would like either myself or my husband to be present. Please let me know.

Sincerely,

Rita Ferguson

January 24, 2002.

To whom it may concern:

I have lived in Apartment 1 at 11505 Dunlavy Lane in Hamburg Township since May 2001. During this time, up to and including the present, I have had no problems with the drains. There have been no back-up, nor drainage problems.

I trust that this information will be helpful to you. Please contact me directly if I can provide further information.

Sincerely,

Bronwen Wildflower Gates, Ph. D.

11505 Dunlavy Lane, # 1,
Whitmore Lake, MI 48189
(734) 424-2744

11505 Dunlavy La. #2
Whitmore Lake, Mi. 48189

January 20, 2002

9715 Daisy La.
Dexter, Mi. 48130

Dear Rita,

I just wanted to write to inform you that I have had no plumbing problems in my
apartment. The sinks & shower all work fine. Water drains normally from them;
faucets produce water when turned on. The toilets flush normally & I have had no back up problems.

Thanks again for providing a beautiful well maintained home for me for all these years.

Sincerely,

Ingrid Weisz

1/20/02

To: Rita Ferguson
RE: Plumbing at 11505 Dunlavy Lane #3

Dear Rita;

I am writing to let you know that the plumbing in my apartment is functioning properly. For that matter, the plumbing here has never been a problem. I have not experienced any back-ups or slow drains. To repeat, the plumbing in this apartment works fine.

For anyone who may have concerns as to your upkeep of this property, as a tenet for nearly 12 years, I can say that you and Mike have always worked to make this a very livable and enjoyable place.

Should there be any further question about 11505 Dunlavy Lane, please by all means, feel free to direct them to me.

Sincerely,

Jason G. Voeller

January 21, 2002

Rita Ferguson
9715 Daisy Lane
Dexter, MI 48130

Dear Rita,

I wanted to take a moment to comment on the quality of the water and sewer service at 11505 Dunlavy Ln. #4, where I've resided since the summer of 1998.

I am glad to say that I've never had any problem with plumbing; both toilet and water supply have been working fine, with plenty of water pressure at the shower as well as the bathroom and kitchen fixtures. The only inconvenience I've had since I moved in was due to a failed element in the water heater, which Mike fixed within an hour or two of my phone call to him late last year. In addition, the toilet has always done its job; in fact I can say that I've never even needed a plunger!

Please let me know if you have any specific questions; I'd be happy to answer any time. Please keep up the good work.

Sincerely,

Devon M. Smith

11505 DUNLAVY LANE #4 WHITMORE LAKE, MT 48189-9374 USA
PHONE: (734) 426-4376 FAX: (734) 426-8160 E-MAIL: DSMITH1~PILOTINDUSTRIES .COM

March 9, 2002

David Lucik, RS
John A. Wilson II
Livingston County Health Department
2300 East Grand River
Howell, Ml 48843-7579

Dear Mr. Lucik & Mr. Wilson:

It was a pleasure to meet both of you on February 27, 2002 at 11505 Dunlavy Lane, and I appreciate you taking the time to meet with my husband and me. On that day you indicated that you were satisfied with the repair that had been made to the hole in the header pipe, a hole which had been causing effluent to be discharged to the surface. You were able to confirm that there was no longer effluent on the surface. It is my recollection that you said no permit was required for this repair and that you would continue to periodically monitor the drainfield. You indicated that as far as inspecting the rest of the lines, that there was an easier way to inspect them. The inspection of the lateral lines was undertaken because of a concern that there may have been or may be additional holes deliberately placed, because of the recent dispute with the Township, and because no effluent had been observed in the Fall. You agreed that under the circumstances you would have been suspicious, too. If holes were punctured in the tops of the pipes in other places in the drainfield, my concern was that these holes would fill up with dirt and block the pipes. The only way to be certain that there were no other holes was to uncover those pipes and visually inspect them. I take exception to your characterization of this as a reconstruction rather than an inspection. The existing sewage system was neither constructed, extended nor altered from its original existing form. Any pipes broken or cracked during the inspection process were replaced. Because you felt this was getting into a gray area, I offered to dig up the lines so that they could be inspected. David Lucik

indicated this was not necessary and would cause additional pipes to be broken. So how do we resolve this permit issue?

You cite as an additional direct violation the 100 feet minimum isolation distance required between surface water and absorption system. The drainfield location for this property has been at the present location since the property was built in 1949. At that time a channel was dug extending some 300 feet from the lake to a point in front of the house. I have to wonder why the Livingston County Health Department waited 53 years to cite this as a direct violation.

You told me that if we were unable to resolve our dispute with the Township, and if after continual monitoring the existing drainfield actually failed, we could relocate the drainfield. The relocation site discussed was further west on the property where there has existed since 1993 an approved Livingston County Health Department drainfield which John Wilson remembered working on. In your letter, however, you make no mention of this agreement-an agreement, which David Lucik suggested and characterized on 2-27-02 as fair.

I request a hearing before the Health Officer. Please mail me the required petition form with instructions and tell me what fee needs to be paid. I will submit this to you. If this letter is sufficient to request the hearing, then tell me what fees need to be paid. I will then wait to hear on what date the hearing will be.

Please forward me a copy of the second complaint you reference in your letter and the information you say you received from Hamburg Township on the same day as the reinspection, February 27,2002.

I would also like to get from you a letter endorsing the settlement proposal we discussed with you, which you encouraged us to present to the Township Board of Trustees. A letter from you might go a long way towards persuading the Township Board to consider this proposal. As you recall,

the proposal was to hook up to the sewers with an assessment of 1 REU and a water meter installed as Ordinance 69 provides for other township businesses, so that sewage use could be monitored, and an adjustment to the assessment made if usage exceeded 1 REU.At the time, all of us thought this would be a win win situation, which the Board ought to consider. So I would appreciate a letter with your endorsement.

Sincerely,

Rita Ferguson